

G. David Roderick, Plaintiff *pro se*
Post Office Box 1653
Cheyenne, WY 82003-1653
Voice (307) 635-2214
Fax (307) 635-2483
E-mail: droderick@bresnan.net

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

APR 05 2010

Stephan Harris, Clerk
Cheyenne

Arthur J. Muir, Plaintiff *pro se*
620 West Prosser Road, Lot D
Cheyenne, WY 82007
Voice (315) 380-2173
Fax (307) 316-0302
E-mail: arthur.muir936@gmail.com
FOR THE PLAINTIFFS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

**GERALD DAVID SHUPE-RODERICK, and
ARTHUR J. MUIR, JR.**

Plaintiffs,

vs.

**BANK OF AMERICA, ANNA NUNEZ, and
JOHN AND JANE DOES 1 THROUGH 10,**

Defendants.

)
) **10CV0063** -J

) DOCKET NO. CV-

)

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CIVIL COMPLAINT

Roderick and Muir vs. Bank of America, et al.
Civil Complaint

COMES NOW, Plaintiff Gerald David Shupe-Roderick (hereinafter “G. David Roderick”) and Arthur J. Muir, *pro se*, and for his Complaint against the Defendants’ states and alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff, G. David Roderick is, and was so at all times relevant to this Complaint a resident of Laramie County, Wyoming.

2. Plaintiff, Arthur J. Muir is, and was so at all times relevant to this Complaint a resident of Laramie County, Wyoming.

3. Defendant, Bank of America is, and was so at all times relevant to this Complaint a corporation doing business in the State of Wyoming.

4. Defendant, Anna Nunez is, and was so at all times relevant to this Complaint a resident of Elko County, Nevada.

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Civil Complaint

5. Defendants, John and Jane Does 1 through 10, are employees of Bank of America and their identities are currently unknown to the Plaintiffs'. However, their identities will be discovered during the discovery process.

6. The amount in controversy exceeds the jurisdictional minimum of this Court and venue in the United States District Court for the District of Wyoming is proper because the acts or omissions that form the basis for Plaintiff's claims occurred entirely within this district.

BACKGROUND FACTS

7. Plaintiff, G. David Roderick (Plaintiff Roderick) opened a checking account with Bank of America on or about February 24, 2010, wherein Defendant Bank of America assigned account number 229034774756.

8. Plaintiff, Arthur J. Muir, Jr. (Plaintiff Muir) assigned his personal income tax refund to Plaintiff Roderick on February 04, 2010 and signed a release for the Internal Revenue Service on February 04, 2010. *(See attached Exhibit 1).*

9. On or about February 25, 2010, Plaintiff Roderick and Plaintiff Muir submitted Plaintiff Muir's 2009 personal tax return to the Internal Revenue Service and in that return,

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Civil Complaint

Plaintiff Muir requested that the Internal Revenue Service deposit his refund into Plaintiff Roderick's personal account. *(See attached Exhibit 2).*

10. On or about March 03, 2010 Plaintiff Roderick received a letter from Defendant Bank of America that indicated his (Plaintiff Roderick) personal account was closed by Defendant Bank of America's Risk Management Department.

11. Upon learning of the account closure, Plaintiff Roderick and Plaintiff Muir contacted the Internal Revenue Service in an attempt to modify the direct deposit information and advised the Internal Revenue Service that the account was closed. The Internal Revenue Service advised Plaintiff Roderick and Plaintiff Muir that it was too late to change the refund method and that Bank of America would reject the deposit immediately and the funds would be issued in the form of a paper check.

12. On or about March 26, 2010, Plaintiff Muir contacted Plaintiff Roderick and stated that the funds were electronically deposited with Defendant Bank of America. After some discussion, Plaintiff Roderick telephoned Defendant Bank of America and it was confirmed that the funds were posted to Plaintiff Roderick's account, in the amount of \$5,107.00.

13. Defendant Bank of America advised Plaintiff Roderick that the funds would not be available for 48 hours, which would have then been Monday, March 29, 2010. Defendant Bank of America stated that this was due to the account having been closed prior to their having accepted the deposit.

14. On Monday, March 29, 2010 at or about 11:43 hours, Plaintiff Roderick again contacted Defendant Bank of America and discussed the situation with Defendant Bank of America. Defendant Bank of America stated that the funds were available but that Plaintiff Roderick would need to personally go into a local banking center with two forms of identification.

15. Upon investigation, Plaintiff Roderick learned that the nearest Bank of America location was located on Idaho Street in Elko, Nevada. The Plaintiff then confirmed, once again by calling Defendant Bank of America, that the funds were available. The representative stated that the funds were available.

16. On March 29, 2010, Plaintiff Roderick drove the 362 miles from Salt Lake City, Utah to Elko, Nevada to withdraw the funds from the Bank of America at that location. Upon arriving to the location, Plaintiff Roderick spoke to Defendant Anna Nunez, who is the Vice President of Bank of America.

17. Defendant Nunez accessed Plaintiff Roderick's account and made a series of phone calls to another Bank of America. Upon completion of these calls, Defendant Nunez stated that the funds would not be available until the morning of Tuesday, March 30, 2010. Plaintiff Roderick calmly explained to Defendant Nunez how far he (Roderick) had traveled and voiced that he (Roderick) was frustrated. Defendant Nunez assured Plaintiff Roderick that the funds would be available the following day, Tuesday, March 30, 2010.

18. On Tuesday, March 30, 2010 at or about 12:09 hours, Plaintiff Roderick called Defendant Nunez's office to inquire of the status of the release of the funds. Plaintiff Roderick was advised by a "Dana" at the Elko, Nevada Bank of America that Defendant Nunez was going to be in "meetings all day." Plaintiff Roderick then explained the situation to Dana and Dana stated that she would "make some phone calls."

19. On March 30, 2010, several phone calls were exchanged between Plaintiff Roderick and Defendant Bank of America and between Plaintiff Muir and Defendant Bank of America. Ultimately, the funds were not released and those phone calls were fruitless.

20. On March 30, 2010, Dana with Defendant Bank of America requested that Plaintiff Roderick fax a copy of the release forms signed by Plaintiff Muir. Plaintiff Roderick immediately faxed those documents to Defendant Bank of America. *(See attached Exhibit 3).*

21. On March 30, 2010, Plaintiff Roderick faxed a letter of intent to Defendant Nunez that stated Plaintiff Roderick and Plaintiff Muir would in fact take legal action against Defendant Nunez, Bank of America and all involved parties if the refund was not processed and released. *(See attached Exhibit 4).*

22. Plaintiff Roderick and Plaintiff Muir again contacted Bank of America on April 02, 2010 and requested that the funds be released. Bank of America stated that they would release the funds *only if Plaintiff Roderick and Plaintiff Muir came into a Bank of America location.* However, there are **NO BANK OF AMERICA LOCATIONS IN WYOMING, COLORADO OR UTAH.**

COUNT 1: UNLAWFUL WITHHOLDING OF CONSUMER FUNDS

24. Defendant Bank of America and its employees, agents and departments have received funds payable to Plaintiff Roderick and have refused to release those funds.

25. Plaintiff Roderick owes no debts or liabilities to Defendant Bank of America and the withholding of funds is unconstitutional and a violation of Federal banking practices.

26. No fraud or illegal activity has been committed with regard to this transaction or any other transaction.

27. Proper affidavits and documentation has been submitted to Defendants Bank of America and Nunez by Plaintiff Roderick and Plaintiff Muir that indicates Plaintiff Muir requested that this deposit be made to Plaintiff Roderick.

COUNT 2: WILLFUL AND MALICIOUS CONDUCT

28. Defendant Bank of America and its employees, agents and departments have been neglectful in handling this matter.

29. Defendant Roderick has been damaged by Defendants' conduct in that Court-ordered obligations have not been satisfied as a result of this conduct.

30. Defendant Muir is facing possible eviction proceedings due to the Defendants' conduct. By Defendant Bank of America withholding these funds, Plaintiff Muir has been unable to pay his rent.

31. Defendant Muir is now unable to operate his personal vehicle due to the fact that his licensing tags have expired. Defendant Muir was unable to pay these costs due to the withholding of said funds by Defendant Bank of America.

WHEREFORE, the Plaintiffs' pray as follows:

1. For judgment in favor of the Plaintiff G. David Roderick in the amount of \$25,000.00 to compensate him for his personal injuries, and such other compensatory damages which the Court or a jury may properly award in accordance with the evidence at the trial of this matter;

2. For judgment in favor of the Plaintiff Arthur J. Muir in the amount of \$5,107.00 to compensate him for his personal injuries, and such other compensatory damages which the Court or a jury may properly award in accordance with the evidence at the trial of this matter;

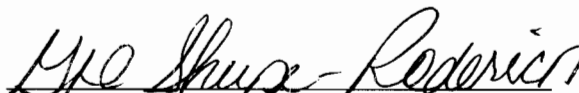
3. For punitive damages against the Defendants in an amount sufficient to punish him for his malicious, willful and wanton conduct, to publicly condemn his actions and to serve as a warning and deterrent to others similarly situated, which such amount shall not be less than \$10,000.00; and

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4. For Plaintiff's costs in bringing this action, including but not limited to, his reasonable attorneys fees, process of service fees, filing fees and such other and further relief as the Court may deem appropriate under the circumstances.

DATED this 5th day of April, 2010.



G. David Roderick, Plaintiff *pro se*

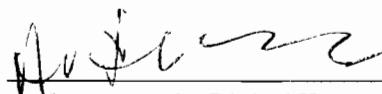
Post Office Box 1653

Cheyenne, WY 82003-1653

Voice (307) 635-2214

Fax (307) 635-2483

E-mail: droderick@bresnan.net



Arthur J. Muir, Plaintiff *pro se*

620 West Prosser Road, Lot D

Cheyenne, WY 82007

Voice (315) 380-2173

Fax (307) 316-0302

E-mail: arthur.muir936@gmail.com

Roderick and Muir vs. Bank of America, et al.

Civil Complaint

EXHIBIT 1

RODERICK AND MUIR

VS.

BANK OF AMERICA, ET AL.

IRS RELEASE FORM

MUIR

RODERICK ERVIN INVESTMENT GROUP

DAVID S. RODERICK, Chief Executive Officer
STEVEN R. ERVIN, Executive Director
JO ANN EVANS, Deputy Director

CORPORATE OFFICE
Post Office Box 1653
Cheyenne, WY 82003-1653

FIELD OFFICE
Post Office Box 1064
Rawlins, WY 82003-1064

VOICE (888) 345-1311 FACSIMILE (888) 635-3575 E-MAIL roderickervin@aim.com

Reply to: Corporate Office

MEMORANDUM

TO:

Internal Revenue Service
Wyoming Service Center
5045 East Butler
Fresno, CA 93888-0014

FROM:

NAME: Arthur J. Muir
SS#: 528-55-6175

DOB: December 23, 1985
ACCT: _____

DATE: February 04, 2010

SUBJECT: 2009 Tax Year Refund

RELEASE TO: Roderick Ervin Investment Group
Post Office Box 1653
Cheyenne, WY 82003


YOU ARE HEREBY AUTHORIZED AND DIRECTED to furnish and release to RODERICK ERVIN INVESTMENT GROUP, 1412 South Greeley Highway, Cheyenne, WY 82007, or its delegate, my full and complete tax return for the tax year 2009. My tax return may be direct deposit into their business account at Western Vista Federal Credit Union, Cheyenne, Wyoming or a paper check may be mailed to them at their address.


ARTHUR J. MUIR

2-4-10
DATE

STATE OF WYOMING)
) ss.
COUNTY OF LARAMIE)

Subscribed and sworn to before me, a Notary Public, on this 4th day of February, 2010, by ARTHUR J. MUIR.


NOTARY PUBLIC

My Commission Expires

10/15/2013

FAXED

FAXED

BY: _____

EXHIBIT 2

RODERICK AND MUIR

VS.

BANK OF AMERICA, ET AL.

2009 TAX RETURN

MUIR

Form
1040

Department of the Treasury - Internal Revenue Service

U.S. Individual Income Tax Return**2009**

(99) IRS Use Only - Do not write or staple in this space.

Label(See inst
on pg 14.)Use the
IRS label.Otherwise,
please print
or type.L
A
B
E
L
H
E
R
E

For the year Jan. 1- Dec. 31, 2009, or other tax year beginning , 2009, ending , 20

OMB No. 1545-0074

ARTHUR J MUIR JR
620 WEST PROSSER ROAD LOT D
CHEYENNE, WY 82007**Your social security number**
528-55-6175**Spouse's social security number**You must enter
your SSN(s) above.
Checking a box below will not change
your tax or refund.**Presidential****Election Campaign** Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 14)☐ **You** ☐ **Spouse****Filing Status**1 ☐ **Single**4 ☒ **Head of household (with qualifying person).** (See page 15.)2 ☐ **Married filing jointly (even if only one had income)**

If the qualifying person is a child but not your dependent, enter this

Check only
one box.3 ☐ **Married filing separately** Enter spouse's SSN above & full name below.

child's name here.

5 ☐ **Qualifying widow(er) with dependent child (see page 16)****Exemptions**6a ☒ **Yourself.** If someone can claim you as a dependent, do not check box 6a.b ☐ **Spouse**Boxes checked
on 6a and 6b**1**No. of children
on 6c who:**1**If more
than four
dependents,
see page 17
and check
here ☐c **Dependents:**

(1) First name Last name

(2) Dependent's
social security number(3) Dependent's
relationship to
you(4) ☒ If qual.
child for
child tax cr.

• lived with you

1**CATHERINE MUIR****431-71-4660 OTHER****BIANCA GARNER****652-42-5588 DAUGHTER**• did not live with you
due to divorce
or separation
(see page 18)**1**Dependents
on 6c not
entered above**1**Add numbers
on lines
above**3**d **Total number of exemptions claimed.****Income**7 **Wages, salaries, tips, etc.** Attach Form(s) W-2**7****306.**8a **Taxable interest.** Attach Schedule B if required**8a**b **Tax-exempt interest.** Do not include on line 8a**8b**9a **Ordinary dividends.** Attach Schedule B if required**9a**b **Qualified dividends (see page 22)****9b**10 **Taxable refunds, credits, or offsets of state and local income taxes (see page 23).****10**11 **Alimony received****11**12 **Business income or (loss).** Attach Schedule C or C-EZ**12****13,000.**13 **Capital gain or (loss)** Attach Schedule D if required.
If not required, check here ☐**13**14 **Other gains or (losses).** Attach Form 4797**14**15a **IRA distributions****15a**b **Taxable amt****15b**16a **Pensions and annuities****16a**b **Taxable amt****16b**17 **Rental real estate, royalties, partnerships, S corporations, trusts, etc.** Attach Schedule E**17**18 **Farm income or (loss).** Attach Schedule F**18**19 **Unemployment compensation in excess of \$2,400 per recipient****19**20a **Social security benefits****20a**b **Taxable amt (see page 27)****20b**21 **Other income.** List type and amount (see page 29)**21**22 **Add the amounts in the far right column for lines 7 through 21. This is your total income.****22****13,306.****Adjusted
Gross
Income**23 **Educator expenses (see page 29)****23**24 **Certain business expenses of reservists, performing artists, and
fee-basis government officials.** Attach Form 2106 or 2106-EZ**24**25 **Health savings account deduction.** Attach Form 8889**25**26 **Moving expenses.** Attach Form 3903**26**27 **One-half of self-employment tax.** Attach Schedule SE**27****919.**28 **Self-employed SEP, SIMPLE, and qualified plans****28**29 **Self-employed health insurance deduction (see page 30)****29**30 **Penalty on early withdrawal of savings****30**31a **Alimony paid** b **Recipient's SSN****31a**32 **IRA deduction (see page 31)****32**33 **Student loan interest deduction (see page 34)****33**34 **Tuition and fees deduction.** Attach Form 8917**34**35 **Domestic production activities deduction.** Attach Form 8903**35**36 **Add lines 23 through 31a and 32 through 35****36****919.**37 **Subtract line 36 from line 22. This is your adjusted gross income.****37****12,387.****KBA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 97.**

Form 1040 (2009)

Form 1040 (2009) **ARTHUR J MUIR JR**

528-55-6175 Page 2

Tax and Credits**38** Amount from line 37 (adjusted gross income).**38** 12,387.**39a** Check ☐ You were born before January 2, 1945, ☐ Blind. ☐ Total boxes checked **39a** ☐ if: ☐ Spouse was born before January 2, 1945, ☐ Blind. **39b** ☐**b** If your spouse itemizes on a separate return or you were a dual-status alien, see pg 35 & check here **39b** ☐**Standard Deduction for -**

- People who check any box on line 39a, 39b, or 40b or who can be claimed as a dependent, see page 35.

- All others:

- Single or Married filing separately, \$5,700

- Married filing jointly or Qualifying widow(er), \$11,400

- Head of household, \$8,350

40a Itemized deductions (from Schedule A) or your standard deduction (see left margin).**40a** 8,350.**b** If you are increasing your standard deduction by certain real estate taxes, new motor vehicle taxes, or a net disaster loss, attach Schedule L and check here (see page 35) **40b** ☐**41** Subtract line 40a from line 38.**41** 4,037.**42** Exemptions. If line 38 is \$125,100 or less and you did not provide housing to a Midwestern displaced individual, multiply \$3,650 by the number on line 6d. Otherwise, see page 37.**42** 10,950.**43** Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-**43** 0.**44** Tax (see page 37). Check if any tax is from: **a** ☐ Form(s) 8814 **b** ☐ Form 4972.**44** 0.**45** Alternative minimum tax (see page 40). Attach Form 6251.**45****46** Add lines 44 and 45.**46** 0.**47** Foreign tax credit. Attach Form 1116 if required.**47****48** Credit for child and dependent care expenses. Attach Form 2441.**48****49** Education credits from Form 8863, line 29.**49****50** Retirement savings contributions credit. Attach Form 8880.**50****51** Child tax credit (see page 42).**51****52** Credits from Form: **a** ☐ 8396 **b** ☐ 8839 **c** ☐ 5695**52****53** Other credits from Form: **a** ☐ 3800 **b** ☐ 8801 **c** ☐**53****54** Add in 47 through 53. These are your total credits.**54****55** Subtract line 54 from line 46. If line 54 is more than line 46, enter -0-**55** 0.**Other Taxes****56** Self-employment tax. Attach Schedule SE.**56** 1,837.**57** Unreported social security and Medicare tax from Form: **a** ☐ 4137 **b** ☐ 8919.**57****58** Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required.**58****59** Additional taxes: **a** ☐ AEIC payments **b** ☐ Household employment taxes. Attach Schedule H.**59****60** Add lines 55 through 59. This is your total tax.**60** 1,837.**Payments****61** Federal income tax withheld from Forms W-2 and 1099.**61** 1.**62** 2009 estimated tax payments and amount applied from 2008 return.**62****63** Making work pay and government retiree credits. Attach Sch M.**63** 400.**64a** Earned income credit (EIC).**64a** 3,043.**b** Nontaxable combat pay election **64b** ☐**65** Additional child tax credit. Attach Form 8812.**65** 1,000.**66** Refundable education credit from Form 8863, line 16.**66****67** First-time homebuyer credit. Attach Form 5405.**67** 2,500.**68** Amount paid with request for extension to file (see page 72).**68****69** Excess social security and tier 1 RRTA tax withheld (see page 72).**69****70** Credits from Form: **a** ☐ 2439 **b** ☐ 4136 **c** ☐ 8801 **d** ☐ 8885**70****71** Add lines 61, 62, 63, 64a, and 65 through 70. These are your total payments.**71** 6,944.**Refund**

Direct deposit? See page 73 and fill in 73b, 73c, and 73d, or Form 8888.

72 If line 71 is more than line 60, subtract line 60 from line 71. This is the amount you overpaid.**72** 5,107.**73a** Amount of line 72 you want refunded to you. If Form 8888 is attached, check here ☐**73a** 5,107.**b** Routing number 063100277 **c** Type: ☒ Checking ☐ Savings**d** Account number 229034774756**74** Amount of line 72 you want applied to your 2010 estimated tax **74****Amount You Owe****75** Amount you owe. Subtract line 71 from line 60. For details on how to pay, see page 74.**75****76** Estimated tax penalty (see page 74).**76****Third Party Designee**Do you want to allow another person to discuss this return with the IRS (see page 75)? ☒ Yes. Complete the following. ☐ No

Designee's name

Phone no.

Personal ID number

DAVID RODERICK**(307) 635-2214****(PIN) 12177****Sign Here**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature

Date

Your occupation

Daytime phone number

Spouse's signature. If a joint return, both must sign.

Date

Spouse's occupation

Joint return? See page 15. Keep a copy for your records.

Paid Preparer's Use Only

Preparer's signature

Date

Check if self-employed ☐

Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code

EIN

Phone no.

EXHIBIT 3

RODERICK AND MUIR

VS.

BANK OF AMERICA, ET AL.

FACSIMILE TRANSMISSION FORM

RODERICK

TORRINGTON OFFICE
 Post Office Box 9998
 Torrington, WY 82240-9998
 Voice (307) 534-5430
 Facsimile (307) 316-0302
 E-mail: reig@bresnan.net

CORPORATE OFFICE
 Post Office Box 1653
 Cheyenne, WY 82003-1653
 Voice (307) 635-2214
 Facsimile (307) 635-2483
 E-mail: reig@bresnan.net

RAWLINS OFFICE
 Post Office Box 1064
 Rawlins, WY 82301-1064
 Voice (307) 324-8828
 Facsimile (307) 324-8496
 E-mail: reig@bresnan.net

UTAH OFFICE
 2186 West 3100 South, Suite 9
 West Valley City, UT 84119
 Voice (801) 972-5009
 Facsimile (801) 972-1859
 E-mail: reig@bresnan.net

***Reply to Utah Office**

FAX TRANSMITTAL FORM

TO:	Dana
COMPANY:	Bank of America - Elko, NV
CC:	
PHONE:	(775) 748-5900
FAX:	(775) 748-5916

FROM:	Gerald Shupe-Roderick
DATE:	March 30, 2010
PAGES:	08, including cover

Message:

Dana,

Please find attached the documents that you requested. I believe that these documents should be sufficient to show that these individuals authorized the Internal Revenue Service to make these deposits payable to me, as the CEO of the company.

Sincerely yours,



Gerald Shupe-Roderick | Chief Executive Officer

RODERICK ERVIN INVESTMENT GROUP, LLC

Post Office Box 1653 | Cheyenne, Wyoming 82003-1653

307.635.2214 (Voice) | 307.635.2483 (Facsimile) | 877.972.5009 (Toll-Free)

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FAXED
 MAR 31 2010
 BY: _____

EXHIBIT 4

RODERICK AND MUIR

VS.

BANK OF AMERICA, ET AL.

COPY OF LETTER TO DEFENDANT NUNEZ

RODERICK

TORRINGTON OFFICE
Post Office Box 9998
Torrington, WY 82240-9998
Voice (307) 534-5430
Facsimile (307) 316-0302
E-mail: reig@bresnan.net

CORPORATE OFFICE
Post Office Box 1653
Cheyenne, WY 82003-1653
Voice (307) 635-2214
Facsimile (307) 635-2483
E-mail: reig@bresnan.net

RAWLINS OFFICE
Post Office Box 1064
Rawlins, WY 82301-1064
Voice (307) 324-8828
Facsimile (307) 324-8496
E-mail: reig@bresnan.net

UTAH OFFICE
2186 West 3100 South, Suite 9
West Valley City, UT 84119
Voice (801) 972-5009
Facsimile (801) 972-1859
E-mail: reig@bresnan.net

****Reply to Utah Office***

March 30, 2010

Anna Nunez, Assistant Vice President
Bank of America, N.A.
605 Idaho Street
Elko, NV 89801-3821

Copy

***SENT VIA FACSIMILE AND
HARD COPY TO FOLLOW IN
UNITED STATES MAIL***

RE: Account Number 229034774756
Final Notice

Dear Ms. Nunez:

This letter is being sent to you regarding my account, account number 229034774756. This notice shall serve as my formal written notice regarding my intent to file a lawsuit against you personally and all involved Bank of America Employee's.

The issue began on February 24, 2010 at which time I opened an account with Bank of America, NA, over the telephone. This account was initially approved by the telephone operator at Bank of America and I was issued a bank identification number and checks were ordered by Bank of America. The account number was provided to the Internal Revenue Service for IRS deposits on February 25, 2010.

On February 26, 2010 the Risk Management Department of Bank of America closed my account. On March 03, 2010, I received a written letter from Bank of America that indicated my account had been closed, but did not state what the reason was. It was later determined through a telephone conversation with Bank of America that the account was in fact closed due to a ChexSystem report.

On March 26, 2010 the Internal Revenue Service deposited two tax returns electronically. One return was in the amount of \$5,107.00 for Arthur J. Muir, who provided written authorization to the Internal Revenue Service to deposit said amount into my account. A copy of this authorization and tax return is attached hereto. The second deposit was in the amount of \$68.96 for Jonathan Roderick, who provided written authorization to the Internal Revenue Service to deposit said amount into my account.

On March 26, 2010, I contacted Bank of America and was told by Risk Management staff that the funds would be available to be withdrawn at ***any Bank of America branch*** on March 29,

2010 with two forms of valid identification. Therefore, on March 29, 2010, I again called Bank of America and was advised by Risk Management that the funds were in fact available and that if I drove to the nearest branch location, I would be given a Cashier's Check for the balance of the account.

On March 29, 2010, I drove the three hundred miles from Salt Lake City, Utah to Elko, Nevada to retrieve the funds. Upon arriving at your banking center, you told me that you would need to call the Risk Management Office. You called that office and after a brief conversation, you disconnected the call and advised me that I would need to come back to the bank in the morning on March 30, 2010. I specifically asked you if I were to come back in the morning, would the funds be available. You stated that the account would be unfroze and that the funds would be released to me.

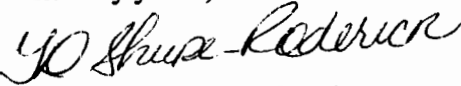
On March 30, 2010 at or about 9:00 a.m., Pacific Standard Time, I called your office and was advised that you would be in "meetings all day." I was then transferred to a "Dana" who attempted to assist me. She requested that I fax her copies of the notarized authorizations from Mr. Muir and Mr. Roderick and she further stated that those authorizations would be sufficient. At or about 4:30 p.m. on March 30, 2010, you called me and stated that there was "no way I can authorize the release of funds."

Bank of America, its employees (you and others) and agents (Risk Management Staff), have illegally withheld these funds. Bank of America is unauthorized to do so and at no time was any authorization or permission, verbal or otherwise, given to Bank of America to freeze these funds. No fraud or criminal activity is present and all proper documentation has been provided to ensure that I am entitled to receive said funds. Bank of America has committed a criminal act in withholding these funds and the matter has been referred to the Elko Police Department for possible criminal action.

In addition, if these funds are not released to me by 12:00 noon, Pacific Standard Time, on March 31, 2010, a lawsuit will be filed in the United States District Court for the District of Utah claiming the amount of the deposits, plus collection expenses and all other legally permissible damages claims. THIS SHALL BE A FORMAL NOTICE OF INTENT TO FILE SUIT for the improper and illegal handling of my funds.

If you have any questions or concerns, please do not hesitate to contact me. I thank you in advance for your anticipated cooperation.

Sincerely yours,



Gerald D. Shupe-Roderick
Chief Executive Officer
Utah Field Office

Enclosures

cc: ✓ Arthur J. Muir
Jonathan L. Roderick
File